

Notice of Allowability

Application No.

09/832,885

Examiner

Johannes P Mondt

Applicant(s)

TSUKIJI ET AL.

Art Unit

2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 10/13/04.
2. ☒ The allowed claim(s) is/are 1-40 and 42-64.
3. ☒ The drawings filed on 12 April 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:

1. ☒ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 10/13/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Response to Amendment

Amendment filed 10/13/2004 forms the basis of this official action. In said Amendment Applicant substantially amended all pending elected claims 1, 2, 4-6 and 36-40 through substantial amendments of claim 1, 2, 4 and 36. Applicant has cancelled claims 3, 41 and 65-82.

Information Disclosure Statement

The examiner has considered the items listed on the Information Disclosure Statement (IDS) filed 10/13/2004. Enclosed with this official action please find a signed copy of Form PTO-1449 of said IDS.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with E. Garlepp on 11/29/2004.

The application has been amended as follows:

(a) Claims 7-35 and 42-64, previously withdrawn as not belonging to the elected generic Species 1, have been rejoined on account of the generic nature of independent claims 1 and 36.

(b) In:

Claims 24-26, lines 2;

Claims 48-49, lines 2;

Claims 51-53, lines 2;

Claims 55-56, lines 2;

Claims 58-59, lines 2; and

Claim 61, line 2,

the term "approximately" has been replaced by the term "about".

END OF EXAMINER'S AMENDMENT

N.B.: Said replacement is not necessitated by any prior art; however, the term "approximately" raises issues of indefiniteness. With reference to the MPEP, 2173.05 (b), the term "about" was held to be clear, but flexible. Ex parte Eastwood, 163 USPQ 316 (Bd. App. 1968).

REASONS FOR ALLOWANCE

Claims 1-40 and 42-64 are allowed

2. The following is an examiner's statement of reasons for allowance: closest prior art to date is Talneau et al Applied Physics Letters Volume 75, No. 5, pp. 600-602, Linke (USPAT 6,363,097) (the latter in view of Yoon et al (INSPEC Accession No.: 6544626 and Talneau et al) (all having been discussed with regard to previous claim language in the previous official action mailed 05/13/2004). Also closely related is Yoshida et al (USPAT 6,567,447 B1) made of record in the IDS filed 10/13/2004.

However, none of the above teach or claim a plurality of longitudinal modes within a full width at half maximum power less than or equal 3 nm and a length of the resonant cavity of at least 800 micron.

The wordings "relatively high" and "relatively low" in claims 20, 27, 33, 47, 54 and 60 are interpreted in light of sections [0060] and [0062] of Applicants' Specification to be defined by the value of the coupling coefficient discussed therein as being either > 1 or < 0.3 , respectively.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johannes P Mondt whose telephone number is 571-272-1919. The examiner can normally be reached on 8:00 - 18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM

November 28, 2004